

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL P. KLAHN,
Plaintiff,

v.

JP MORGAN CHASE NATIONAL
CORPORATION SERVICES, INC., et al.,
Defendants.

No. C -12-01124 EDL

**ORDER DENYING DEFENDANT'S
REQUEST TO DISMISS PLAINTIFF'S
COMPLAINT**

On June 25, 2012, the Court issued an order granting Defendant Paris & Paris's Motion to Dismiss, and giving Plaintiff leave to amend his complaint. On June 27 and 28, 2012, Plaintiff filed motions to amend/correct the complaint. Because the Court had already granted Plaintiff leave to amend, the Court issued an order on July 2, 2012 denying the motions as moot and giving Plaintiff until July 12, 2012 to file an amended complaint. On July 6, 2012, Plaintiff filed an amended complaint.

On August 7, 2012, Defendant filed a declaration of counsel asking the Court to dismiss Plaintiff's complaint because Plaintiff allegedly failed to file an amended complaint by the deadline of July 12, 2012 and because he allegedly failed to serve initial disclosures. On August 13, 2012, Plaintiff filed a responsive declaration stating that he filed his amended complaint on July 6, 2012, and that he served his initial disclosures on June 13, 2012 by mailing them to Defendant.

The Court notes that a declaration of counsel is not the appropriate mechanism to seek dismissal. Further, it appears that Plaintiff's July 6, 2012 filing complied with the Court's order to file an amended complaint. Plaintiff states also in his declaration that he served initial disclosures

1 on Defendant. Therefore, Defendant's bases for seeking dismissal are not well-taken. Defendant's
2 request to dismiss Plaintiff's complaint is denied.

3 IT IS SO ORDERED.

4 Dated: August 20, 2012

Elizabeth D. Laporte

ELIZABETH D. LAPORTE
United States Magistrate Judge